

PERMANENT SANITARY SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That Allied-Hubbell I, an Iowa General Partnership, ("Grantor"), in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby sell, grant and convey unto the City of West Des Moines, Iowa, an Iowa municipal corporation, the following easements under, through and across the following described real estate situated in Dallas County, Iowa:

Perpetual Easement

A permanent easement under, through and across a tract of land in the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., now included in and forming a part of the City of West Des Moines, Dallas County, Iowa. Said tract is thirty (30.0) feet wide centered on a line described as follows:

Commencing at the Southeast corner of the West 42.67 acres of said Government Lot 3, with the East line of the West 42.67 acres of said Government Lot 3 having an assumed true bearing of North 0°42'02" East with all subsequent bearings referenced therefrom; thence North 0°42'02" East, a distance of fifty-six and eighty-six hundredths (56.86) feet to the point of beginning; thence North 61°53'07" West, a distance of eighty-seven and thirteen hundredths (87.13) feet; thence North 16°32'37" West, a distance of nineteen and twenty-five hundredths (19.25) feet; thence North 29°26'25" East, a distance of one hundred twenty-five and twenty-two hundredths (125.22) feet; thence North 1°01'01" West, a distance of seventy-two and ten hundredths (72.10) feet; thence North 0°42'02" East, a distance of one thousand four hundred forty-two and twenty-four hundredths (1,442.24) feet; thence North 44°17'58" West, a distance of two hundred forty-three and seventy-two hundredths (243.72) feet; thence North 21°13'55" West, a distance of two hundred nine (209.0) feet, more or less, to the south line of a tract of land described as follows:

Commencing as a point of reference at the Northeast corner of the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., City of West Des Moines, Dallas County, Iowa; thence S00°29'47"E, 60.00 feet along the East line of said West 42.67 acres to a point on the South right-of-way line of University Avenue; thence S89°27'14"W, 194.40 feet along said right-of-way line to the point of beginning; thence S89°27'14"W, 100.00 feet along said right-of-way line to a point; thence S00°32'46"E, 13.55 feet to a point of curvature; thence southerly along a curve to the right having a radius of 162.50 feet, an arc length of 30.00 feet to a point; thence S00°32'46"E, 56.62 feet to a point; thence N89°27'14"E, 102.76 feet to a point; thence N00°32'46"W, 100.00 feet to the point of beginning and containing 0.234 acres more or less, (the "Pumping Station Parcel");

RECORDER'S NOTE: NO CITY CORPORATION SEAL AFFIXED.

33022  
FILED  
689 PAGE 774-777  
90 OCT 23 PM 2:46  
20.0

### Temporary Easement

A temporary easement during initial construction of the sanitary sewer, but not thereafter, which shall include the area between a line twenty-five (25.0) feet Easterly and parallel to the above described line and the area between a line twenty-five (25.0) feet Westerly and parallel to the same above described line, to the extent that such area is within the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., in the City of West Des Moines, Dallas County, Iowa.

1. These easements are granted unto the City of West Des Moines, Iowa for the purpose of construction, installation and maintenance of the following described public improvement: The North Slope Sanitary Sewer. In connection herewith, it is specifically agreed that by this easement, the City of West Des Moines, Iowa shall have the right to enter upon said easement areas as shall be necessary to construct, reconstruct, inspect, repair, operate and maintain and service any and all of said sanitary sewers and all appurtenances thereto, together with the right to use and operate said sanitary sewers as it reasonably deems necessary.
2. After completion of initial construction of the sanitary sewer project by the City, Grantor, and its successors and assigns, shall have the right to construct, operate and maintain a surfaced parking lot or landscaping (except the planting of trees) within said easement area provided, however, that it does not reduce the grade above said sewer and provided that no other permanent improvements shall be built or placed upon the above described permanent easement.
3. The City shall restore said surface of the Easement Areas to a satisfactory condition after construction or maintenance, in substantially the same condition as such surface existed prior to each such entry; provided, however, if improvements shall be built or placed upon the above-described permanent easement which are not permitted by this Agreement and in violation of this Agreement, the City shall in no way be responsible for any damages thereto resulting from the construction, reconstruction, maintenance or repair of said sanitary sewer improvements and the City shall have no duty to restore the same.
4. City agrees to obtain, at its sole cost and expense, such permits, licenses or other authority which may be required from federal, state, county, municipal or other governmental agency or units exercising jurisdiction over the installation and operation of the above described sanitary sewer facilities before using the easements or exercising the rights herein provided, and further agrees to comply with and strictly observe any and all laws, rules and regulations of any such governmental agency or unit.
5. The City shall cause all work performed in connection with its use of such Easement Areas to be accomplished with care and in a manner and time that will cause the least interference with the easement areas.
6. The City agrees to protect, defend, indemnify and hold Grantor, its partners, tenants, agents and their officers, directors and employees, harmless from any and all claims, liabilities and expenses, including reasonable attorney's fees, which may arise from the use of the easement, or from any encroachment onto the

adjacent property of Grantor by, or from the acts or negligence of, the City or its contractors, subcontractors, officers, agents, employees or representatives, or any of them, in the prosecution of the work performed in the easement area or in fulfillment of the City's obligations under this Agreement, or otherwise in connection therewith.

7. Grantor hereby covenants with the City, and its successors in interest, that Grantor holds said real estate by title in fee simple; that it has good and lawful authority to sell and grant the easements contained in this Agreement; that the easement areas are free and clear of all liens and encumbrances whatsoever; that Grantor covenants to warrant and defend said easement areas against the lawful claims of persons whomsoever.
8. Each and every covenant and agreement contained in this Agreement shall inure to the benefit of and be binding upon Grantor and the City and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor has duly executed, in triplicate, this Agreement as of this 11<sup>th</sup> day of October, 1990.

ALLIED-HUBBELL I  
BY: F. M. HUBBELL, SON  
& COMPANY, INCORPORATED

By: James W. Hubbell III  
James W. Hubbell III, President  
By: R. Michael Hayes  
R. Michael Hayes, Secretary



STATE OF IOWA )  
                  )SS.  
COUNTY OF POLK )

On this 11<sup>th</sup> day of October, 1990, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James W. Hubbell III and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of F. M. Hubbell, Son & Company, Incorporated; that the seal affixed hereto is the seal of said corporation; that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said James W. Hubbell III and R. Michael Hayes, as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Kathryn A. Hansen  
Notary Public in and for the State of Iowa



**ACCEPTANCE**

This Easement was accepted by action of the City Council of the City of West Des Moines, Iowa this 15 day of October, 1990.

THE CITY OF WEST DES MOINES,  
IOWA

By: George M. Mills  
George M. Mills, Mayor

By: Ronna S. Rivas  
Ronna S. Rivas, City Clerk

STATE OF IOWA )  
                  )SS.  
COUNTY OF POLK )

On this 15 day of October, 1990, before me, the undersigned, a Notary Public in and for the State of Iowa; personally appeared George M. Mills and Ronna S. Rivas, to me personally known, who, being duly sworn by me, did say that they are the Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the municipal corporation; that the instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council; and that the said George M. Mills and Ronna S. Rivas, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it and by them voluntarily executed.

[Signature]  
Notary Public in and for the State  
of Iowa

10--23--90 787.02 \*20.00

*Handwritten notes:*  
2/11  
City of West Des Moines  
City Clerk's Office